

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:16-cr-003

- vs -

District Judge Walter Herbert Rice

Magistrate Judge Michael R. Merz

MANUEL VALDEZ-MEDINA,

Defendant.

:

REPORT AND RECOMMENDATIONS

This case is before the Court on Defendant's pro se Request for Court Documents (ECF No. 34). Treating the request as a motion, Judge Rice has referred it to the undersigned (ECF No. 35).

To prepare his motion to vacate under 28 U.S.C. § 2255, Defendant seeks the following documents:

police reports; DEA reports; FBI reports; arrest warrants and affidavits used to obtain the search warrant; guilty plea and transcripts; indictment; summary docket sheet; search warrant; sentencing transcripts; letters from and to attorney regarding conditions or terms of plea; presentence report; objections to presentence report; judgment and commitment orders; all motions filed; and please include Court rules.

The Court does not have police reports, DEA reports, FBI reports; or correspondence between Defendant and his attorney or between defense counsel and the United States attorney regarding terms of the plea; these are not documents ever filed with the Court. The arrest warrant remains under seal as issued by Magistrate Judge Newman (ECF No. 2). The Plea Agreement (ECF No. 21) is also filed under seal. The presentence investigation report is a confidential document in the custody of the United States Probation Department and is not on file with the Court. The guilty plea colloquy, which was conducted by Magistrate Judge Newman, has not been transcribed, nor has the sentencing hearing before Judge Rice. If any search warrants were issued to obtain evidence relied on by the United States in this case, they are docketed under a different case number and name. There is no indictment in this case because Defendant waived indictment and pled to an Information (ECF No. 19).

All unsealed documents filed with the Court can be viewed through PACER (Public Access to Court Electronic Records) or the Clerk can furnish printed copies at a cost of \$.50 per page, paid in advance. This fee is ordered by the Judicial Conference of the United States and this Court is without authority to waive it.

Court rules should be available at the prison library. The most relevant rules would be the Rules Governing § 2255 Proceedings, Title 28 of the United States Code (which contains 28 U.S.C. § 2255), and the Federal Rules of Criminal Procedure.

Possession of any of the documents sought by Defendant is not necessary to file a motion to vacate under 28 U.S.C. § 2255. Defendant is advised that there is a one year statute of limitations on such motions which runs from the date the judgment becomes final. In this case, since Defendant took no appeal, the time runs from the last day on which he could have appealed, August 15, 2016.

To the extent Defendant's Request is that these documents be furnished free, the Request should be DENIED.¹

October 14, 2016.

s/ *Michael R. Merz*
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 153-55 (1985).

¹ Under Fed. R. Crim. P. 59(a), Judge Rice could have referred the Request for decision, since it is non-dispositive. However, the Order of Reference expressly requires a report and recommendations.